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IPIB AO 2016-10

June 16, 2016

SUBJECT: Is ISAC Jurisdictional Authority over Iowa Code chapter 331

Kevin Kilgore
1695 115th Street
Diagonal, Iowa 50845

Dear Mr. Kilgore:

This opinion is in response to your letter of May 23, 2016, requesting an opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code section 23.6 and rule 497—1.2. We note at the outset that IPIB's jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

You raise the issue of the Iowa State Association of Counties (ISAC) providing guidance concerning the application of Iowa Code chapter 331.

QUESTION:

1. Is the Iowa State Association of Counties the jurisdictional authority for Iowa Code chapter 331?

OPINION:

The Board does not have the authority to interpret Iowa Code chapter 331.¹ As such, we cannot address your question concerning jurisdictional authority over Chapter 331. In your letter to IPIB requesting this opinion, you raised a concern with training materials provided by ISAC to county officials. We addressed that issue in IPIB AO 2015-09 that was issued to you on December 17, 2015.

In your letter to IPIB you stated that ISAC "is a government entity by definition" under Iowa Code chapter 22. We do have the authority to speak to that issue.

¹ Iowa Code chapter 331 deals with county home rule implementation.

Board Members

Anthony Gaughan • Keith Luchtel • Jo Martin • Andrew McKean
Gary Mohr • Suzan Stewart

Iowa Code section 22.1(1) defines the term “government body” for purposes of the application of Iowa Code chapter 22. That section states:

“The term “government body” means this state, or any county, city, township, school corporation, political subdivision, tax-supported district, nonprofit corporation other than a fair conducting a fair event as provided in chapter 174, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D; the governing body of a drainage or levee district as provided in chapter 468, including a board as defined in section 468.3, regardless of how the district is organized; or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official, or officer of any of the foregoing or any employee delegated the responsibility for implementing the requirements of this chapter.”

ISAC is a domestic nonprofit corporation organized under Iowa Code chapter 504.² ISAC is not “licensed to conduct pari-mutuel wagering pursuant to chapter 99D”. In addition, ISAC is not considered to be any of the other entities listed in Iowa Code section 22.1(1). As such, ISAC is not a “government body” for purposes of Iowa Code chapter 22.

BY DIRECTION AND VOTE OF THE BOARD

Suzan Stewart, Chair
Anthony Gaughan
Keith Luchtel
Jo Martin
Andrew McKean
Gary Mohr

Submitted by: W. Charles Smithson, IPIB Director

² ISAC is registered with the Iowa Secretary of State’s office as having such a status.